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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,495	07/26/2001	Shunsuke Nakamura	393032027400	9199

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MORRISON & FOERSTER, LLP
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EXAMINER

NELSON, FREDA ANN

ART UNIT	PAPER NUMBER
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3628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/916,495

Applicant(s)

NAKAMURA, SHUNSUKE

Examiner

Freda A. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-13, 16-24, 27-35, 38-46 and 49-59 is/are pending in the application.
- 4a) Of the above claim(s) 6-11, 17-22, 28-33, 39-44 and 50-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5, 12-13, 23-24, 27, 34-35, 38 and 45-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment received on July 31, 2006 is acknowledged and entered. Claims 1, 12, 23, 34 and 45 have been amended. Claims 3-4, 14-15, 25-26, 36-37, and 47-48 have been canceled. Claims 6-11, 17-22, 28-33, 39-44, and 50-55 have been withdrawn. Claims 56-57 have been added. Claims 1-2, 5-13, 16-24, 27-35, 38-46, and 49-59 are currently pending.

Response to Amendment and Arguments

Applicant's arguments filed July 31, 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments that in regards to claims 1, 12, 23, 34 and 45, JP '488 does not disclose a registration permitting means for permitting creator registration on the basis of a judgment by an operator of the distribution server when the stored content item for an examining purpose is higher than a predetermined level and for transmitting permission for creator registration to said creator terminal, the examiner asserts that Dows et al. teaches a registration permitting means for permitting creator registration on the basis of a judgment by an operator of the distribution server when the stored content item for an examining purpose is higher than a predetermined level and for transmitting permission for creator registration to said creator terminal (see FIG. 8).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, the examiner is unable to determine from the claim language "when the stored content item for examining purpose is higher than a predetermined level", what the applicant is actually claiming. Is the "quality of a stored content item" higher than a predetermining level?

As per claim 1, the examiner is unable to determine by the claim language "permitting creator registration", if the creator actually creates a registration. Because the creator is permitted to create and does not actually create, the examiner takes the position that the creator does not create a registration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claims 1-2, 12-13, 23-24, 34-35, and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable by Sasaki et al. (JP 2000163488), in view of Iwata et al. (US PG Pub. 2001/0041050), still in further view of Downs et al. US Patent Number 6, 574,609).

As per claims 1, 12, 23, 34, and 45, Sasaki et al. disclose discloses a content distribution system including a creator terminal, a distribution server and a client terminal, and configured such that said creator terminal provides a content item to said distribution server, and said distribution server stores the provided content item and supplies the stored content item to said client terminal in response to a request from said client terminal, wherein said creator terminal comprises charge processing means for charging a fee to a user of said client terminal when the content item stored in said distribution server is supplied to said client terminal (paragraphs [0034]-[0038]); and distribution processing means for distributing a portion of the charged fee back to a registered user of said creator terminal who has provided the content item (paragraph [0039]).

Sasaki et al. do not expressly disclose content item transmitting means for transmitting a content item for an examining purpose to said distribution server; and wherein said distribution server comprises content item storing means for storing the content item for an examining purpose transmitted from the creator terminal;

registration permitting means for permitting creator registration on the basis of a judgment by an operator of the distribution server when the stored content item for an examining purpose is higher than a predetermined level and for transmitting permission for creator registration to said creator terminal.

However, Iwata et al. disclose a computer system that includes a microprocessor and a memory that stores the computer program, wherein the computer system achieves the functions of the video editing apparatus 10 by executing the computer program stored in the memory using the microprocessor; and a separated computer system by delivering the recording medium, which stores the computer program or the digital signals, to the separated computer system or transferring the computer program or the digital signals to the separated computer system via the network (paragraphs [0249]-[0250]).

Iwata et al. further disclose the usage condition input unit 115 receives user' designations of a distribution pattern, an encryption necessity, a picture quality, a validity, a broadcast date and time, and an upper limit (step S201) and writes the user' designations into the usage condition table 351 stored in the usage condition storing unit 114 (step S202)(paragraph [0198]).

Downs et al. disclose a registration permitting means for permitting creator registration on the basis of a judgment by an operator of the distribution server when the stored content item for an examining purpose is higher than a

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predetermined level and for transmitting permission for creator registration to said creator terminal (see FIG 8, [ref 810]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Sasaki et al. to include the features of Iwata et al. and Downs et al. in order to provide the user the ability to screen content before storing it in order to maintain a high standard or quality.

As per claims 2, 13, 24-25, 35, and 46, Sasaki et al. disclose a content distribution system, wherein the content item is a piece of music, and said distribution server further comprises copyright processing means for executing processing in relation to copyright of a content item supplied from said creator terminal to said distribution server (paragraphs [0045], [0055]).

As per claim 56, Sasaki et al. disclose a content distribution system according to claim 1, said creator terminal further comprising:

ID number requesting means for requesting the ID number to the distribution server; and

ID number receiving means for receiving the ID number transmitted from the distribution server and for storing the ID number (see claims 6-8);

wherein said content item transmitting means transmits the content item for an examining purpose together with the ID number to said distribution server, and said distribution server further comprising:

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ID number allotting means for allotting the ID number to said creator terminal to transmit the ID number in response to the request for the ID number from said creator terminal (see paragraphs [0022]-[0026]).

As per claim 57, Sasaki et al. disclose a content distribution system according to claim 1, said creator terminal further comprising authoring tool requesting means for requesting an authoring tool to said distribution server, the authoring tool being used for converting into a predetermined format the content item supplied from said creator terminal to said distribution server (paragraphs [0054]-[0059]); and

uploading means for converting content item by using the authoring tool provided by said distribution server to upload the converted content item; and said distribution server further comprising authoring tool provision means for providing, in response to a request from said creator terminal, an authoring tool to said creator terminal when permission for creator registration is given to said creator terminal ([0054]-[0059]).

2. Claims 5, 16, 27, 38, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. (JP.2000163488) in view of Lin et al. (Patent Number 6,366,791).

As per claims 5, 16, 27, 38, and 49, Sasaki et al. do not disclose a content distribution system according to claim 1, wherein said client terminal is a phone, and said content item is a piece of music used on the phone.

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However, Lin et al. disclose that it should be understood that prior to allowing the mobile subscriber to access the subscriber record 28, the identity of the mobile subscriber is first authenticated. Fees for each musical score 55 can be displayed to the mobile subscriber on the computer 21, and acceptance of these fees provided by the mobile subscriber to the network operator via the web page 45 prior to initiating downloading of the selected musical score(s) 55 (col. 3, lines 60-65); and that the downloading of ringing tone patterns 65 to MSs 20 can be implemented within any type of cellular system (col. 4, lines 30-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Sasaki et al. to include the feature of Lin et al. in order to permit the user to download music to handheld terminals.

Conclusion

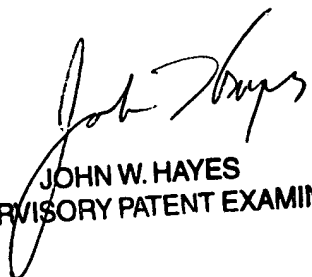
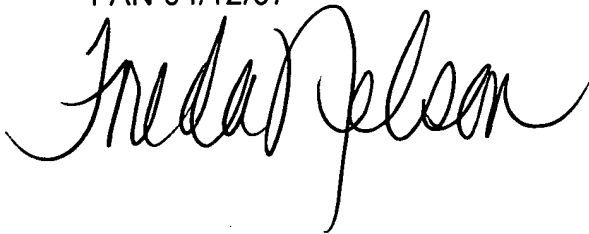
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday, 9:00 am -5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAN 04/12/07



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER